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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 RIGHTHAVEN LLC, a Nevada limited-
liability company,

12
13 Plaintiff,

14 v.

15 DONALD K. SCHULTZ, an individual; and
16 TRAVIS NAGLE, an individual,

17 Defendants.
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Case No.: 2:10-cv-01605

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

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20 Righthaven LLC (“Righthaven”) complains as follows against Donald K. Schultz (“Mr.
21 Schultz”) and Travis Nagle (“Mr. Nagle”; collectively with Mr. Schultz known herein as the
22 “Defendants”) on information and belief:
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25 **NATURE OF ACTION**

26 1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.
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PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Mr. Nagle is, and has been at all times relevant to this lawsuit, identified by the current registrar, GoDaddy.com, Inc. (“GoDaddy”), as the registrant, administrative contact, and technical contact for the Internet domain found at <donatdawn.com> (the “Domain”).

5. Mr. Schultz is, and has been at all times relevant to this lawsuit, identified by the content accessible through the Domain (said content accessible through the Domain known herein as the “Website”) as the administrator of the Website.

6. Mr. Schultz reproduced an unauthorized copy of the Righthaven-owned literary work entitled: “Reid touts third clean-energy summit” (the “Work”), attached hereto as Exhibit 1, and posted said unauthorized copy (the “Infringement”), attached hereto as Exhibit 2, on the Website.

JURISDICTION

7. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

8. Righthaven is the owner of the copyright in the Work.

9. At all times relevant to this lawsuit, the Work has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.

10. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

11. On or about July 30, 2010, the Defendants displayed, and continue to display, the Infringement on the Website.

12. At all times relevant to this lawsuit, the Infringement has depicted and depicts the original source publication as the Las Vegas *Review-Journal*.

13. The subject matter, at least in part, of the Work and the Infringement, is Nevada-based Senator Harry Reid's promotion of a clean energy summit located in Las Vegas, Nevada.

14. At all times relevant to this lawsuit, the Defendants knew that the Work was originally published in the Las Vegas *Review-Journal*.

15. At all times relevant to this lawsuit, the Defendants knew that the Infringement was and is of specific interest to Nevada residents.

16. The Defendants' display of the Infringement was and is purposefully directed at Nevada residents.

VENUE

17. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

18. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400 (a), because the Defendants are subject to personal jurisdiction in Nevada.

FACTS

19. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

20. Righthaven is the owner of the copyright in and to the Work.

21. The Work was originally published on or about July 29, 2010.

22. On September 15, 2010, the United States Copyright Office (the "USCO") received Righthaven's official submittal for the registration to the Work, including the

1 application, the deposit copy, and the registration fee (the “Complete Application”), Service
2 Request No. 1-487413282, and attached hereto as Exhibit 3 is the official USCO application
3 submittal for the Work depicting the occurrence of the Complete Application.

4 23. On or about July 30, 2010, Mr. Schultz posted the Infringement on the Website,
5 and the indication of Mr. Schultz’s posting of the Infringement on the Website is attached hereto
6 as Exhibit 2.

7 24. On or about July 30, 2010, the Defendants displayed, and continue to display, the
8 Infringement on the Website.

9 25. The Defendants did not seek permission, in any manner, to reproduce, display, or
10 otherwise exploit the Work.

11 26. The Defendants were not granted permission, in any manner, to reproduce,
12 display, or otherwise exploit the Work.

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16 **CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT**

17 27. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through
18 26 above.

19 28. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17
20 U.S.C. § 106(1).

21 29. Righthaven holds the exclusive right to prepare derivative works based upon the
22 Work, pursuant to 17 U.S.C. § 106(2).

23 30. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to
24 17 U.S.C. § 106(3).

25 31. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17
26 U.S.C. § 106(5).

27 32. The Defendants reproduced the Work in derogation of Righthaven’s exclusive
28 rights under 17 U.S.C. § 106(1).

33. The Defendants distributed, and continue to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

34. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

35. Mr. Schultz has willfully engaged in the copyright infringement of the Work.

36. Mr. Nagle has willfully engaged in the copyright infringement of the Work.

37. The Defendants' acts as alleged herein, and the ongoing direct results of those acts, have caused and will continue to cause irreparable harm to Righthaven in an amount Righthaven cannot ascertain, leaving Righthaven with no adequate remedy at law.

38. Unless the Defendants are preliminarily and permanently enjoined from further infringement of the Work, Righthaven will be irreparably harmed, and Righthaven is thus entitled to preliminary and permanent injunctive relief against further infringement by the Defendants of the Work, pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

Righthaven requests that this Court grant Righthaven's claim for relief herein as follows:

1. Preliminarily and permanently enjoin and restrain the Defendants, and the Defendants' agents, servants, employees, attorneys, parents, subsidiaries, related companies, partners, and all persons acting for, by, with, through, or under the Defendants, from directly or indirectly infringing the Work by reproducing the Work, preparing derivative works based on the Work, distributing the Work to the public, and/or displaying the Work, or ordering, directing, participating in, or assisting in any such activity;

2. Direct the Defendants to preserve, retain, and deliver to Righthaven in hard copies or electronic copies:

1 a. All evidence and documentation relating in any way to the Defendants'
2 use of the Work, in any form, including, without limitation, all such evidence and
3 documentation relating to the Website;

4 b. All evidence and documentation relating to the names and addresses
5 (whether electronic mail addresses or otherwise) of any person with whom the
6 Defendants have communicated regarding the Defendants' use of the Work; and

7 c. All financial evidence and documentation relating to the Defendants' use
8 of the Work;

9 3. Direct GoDaddy, and any successor domain name registrar for the Domain, to
10 lock the Domain and transfer control of the Domain to Righthaven;

11 4. Award Righthaven statutory damages for the willful infringement of the Work,
12 pursuant to 17 U.S.C. § 504(c);

13 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by
14 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

15 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
16 law; and

17 7. Grant Righthaven such other relief as this Court deems appropriate.
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DEMAND FOR JURY TRIAL

Righthaven requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated this twentieth day of September, 2010.

RIGHTHAVEN LLC

By: /s/ J. Charles Coons
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